

Message Text

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PAGE 01 BERN 01822 281223Z

43

ACTION L-03

INFO OCT-01 EUR-12 ISO-00 JUSE-00 COME-00 EB-07 TRSE-00

PM-04 NSC-05 SP-02 SS-15 CIAE-00 DODE-00 INR-07

NSAE-00 PA-01 USIA-06 PRS-01 FRB-03 /067 W

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P 281132Z APR 76

FM AMEMBASSY BERN

TO SECSTATE WASHDC PRIORITY 2498

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E.O. 11652: N/A

TAGS: PGOV, PFOR, SZ

SUBJ: CABINET TASK FORCE ON QUESTIONABLE PAYMENTS ABROAD: FOREIGN
LAWS ON QUESTIONABLE PAYMENTS

REF: STATE 094647

1. FOLLOWING PARAGRAPHS ARE KEYED TO THE QUESTIONS SET
FORTH IN REFTEL:

A) YES - ART. 288 OF SWISS PENAL CODE (SPC) PROHIBITS
CORRUPTION OF OFFICIALS. NATIONALITY OF OFFICIALS IS NOT
SPECIFIED, BUT ART. 3(1) OF SPC STATES THAT "THE PRESENT CODE
IS APPLICABLE TO SOMEONE WHO WILL COMMIT A CRIME OR AN
OFFENSE IN SWITZERLAND".

B) NOTHING IN SPC REQUIRES THIS BUT ACCOUNTING REQUIREMENTS
IN FEDERAL CODE OF OBLIGATIONS (WHICH COVERS, INTER ALIA,
COMMERCIAL LAW) MAY POSSIBLY BE CONSTRUED TO REQUIRE THAT
ACCOUNTS OF COMPANIES REFLECT SUCH PAYMENTS. HOWEVER, PUBLIC
FINANCIAL STATEMENTS SELDOM REVEAL SUCH MEANINGFUL INFOR-
MATION ABOUT A COMPANY'S FINANCES. ACCORDINGLY SUCH INFO
WOULD NOT, RPT NOT, BE REVEALED TO THE GENERAL PUBLIC ALTHOUGH
GOVT OFFICIALS, PARTICULARLY TAX AUDITORS, MIGHT BECOME
AWARE OF IT.

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PAGE 02 BERN 01822 281223Z

C) NO

D) NO

E) NO

F) ART. 159 SPC AND ART. 321 A.1. OF THE FEDERAL CODE OF
OBLIGATIONS PROHIBIT COMMERCIAL CORRUPTION.

2. EMBASSY ASSUMES THAT DEPT HAS COPIES OF SWISS PENAL CODE
AND SWISS FEDERAL CODE OF OBLIGATIONS. IF NOT, EMBASSY WILL
BE PLEASED TO SEND THEM. AS DEPT AWARE, SUBSTANTIVE CRIMINAL
LAW IN SWITZERLAND IS FEDERAL. ACCORDINGLY, NO CANTONAL CODES
ARE APPLICABLE.
DAVIS

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Message Attributes

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Disposition Event:
Disposition History: n/a
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Margaret P. Grafeld
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